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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/701,948	03/16/2001	Jo McKnight	9404:7285	1687

7590

11/04/2003

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EXAMINER

WATKINS III, WILLIAM P

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 11/04/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

C1013

Office Action Summary	Application No.	Applicant(s)	
	09/701,948	MCKNIGHT ET AL.	
	Examiner	Art Unit	
	William P. Watkins III	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,21,22,24-33 and 35-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,4,21,22,24-33,35-37 and 39 is/are allowed.
- 6) ☒ Claim(s) 38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>12</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 15 August 2003 has been entered.

2. A substitute specification, not including the claims, is required pursuant to 37 CFR 1.125(a) because the original copy of the body of the specification, filed with the application, has holes punched through words in the first line of several pages as well as lines on several pages where the copy quality is very poor.

A substitute specification filed under 37 CFR 1.125(a) must only contain subject matter from the original specification and any previously entered amendment under 37 CFR 1.121. If the substitute specification contains additional subject matter not

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of record, the substitute specification must be filed under 37 CFR 1.125(b) and (c).

3. The copy of the Form 1449 filed 15 August 2003, which is a duplicate of the form filed with the IDS of 27 January 2003, has been completed and is attached to the instant office action.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Strong (U.S. 4,286,002) in view of Jackson (U.S. 4,280,487).

Strong teaches a fabric type absorbent layer between a slit or perforated cover sheet and an impermeable back sheet for use under a bed ridden patient (abstract, col. 2, lines 5-10). Jackson teaches circulation of air through a space formed by an impermeable back layer and a perforated top layer to provide

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fresh air to a bed ridden patient with inlet and outlets for the air provided (abstract, Figure 2). The instant invention claims two layers with a middle fabric layer with the upper layer perforated to allow air flow and an air inlet. It would have been obvious to one of ordinary skill in the art to provide an inlet in the laminate of Strong in order to allow air circulation to prevent bed sores because of the teachings of Jackson.

6. Applicant's arguments filed 15 August 2003 have been fully considered but they are not persuasive.

Applicant argues that there is no motivation to combine the air circulation feature of Jackson with the Strong reference because no requirement for air circulation is given in Strong. The examiner disagrees. Strong teaches a pad which is placed under a bed ridden patient in order to absorb moisture that comes from the bed ridden patient. Though the pad is mainly directed at large urine flows, it will also absorb the same perspiration and other moisture that the absorbent foam of Jackson does when placed under a patient. It is thus logical for one of ordinary skill in the art to use the air circulation taught by Jackson in Strong to prevent bedsores and other

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problems that Jackson teaches develop due to perspiration and other moisture between a bed ridden patient and the supporting bed pads..

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 703-308-2420. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.



WW/ww

November 3, 2003

**WILLIAM P. WATKINS III
PRIMARY EXAMINER**